

PTO/SB/21 (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

31

Application Number

09/687,828

Filing Date

October 12, 2000

First Named Inventor

James Paschal McCloskey

Art Unit

3653

Examiner Name

Joseph C. Rodriguez

Attorney Docket Number

MSX 302RI

ENCLOSURES (Check all that apply)

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/
Incomplete ApplicationReply to Missing Parts
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a
Provisional Application

Power of Attorney, Revocation



Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____

☐ Landscape Table on CD

After Allowance Communication to TC

Appeal Communication to Board
of Appeals and InterferencesAppeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify
below):

Return receipt postcard.

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Kolisch Hartwell, P.C.

Signature

Printed name

Peter E. Heuser

Date

July 22, 2005

Reg. No.

27,902

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature

Typed or printed name

Suzanne Lukas-Werner

Date

July 22, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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JUL 26 2005

PTO/SB/17 (12-04)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 250.00

Complete if Known

Application Number	09/687,828
Filing Date	October 12, 2000
First Named Inventor	James Paschal McCloskey
Examiner Name	Joseph C. Rodriguez
Art Unit	3653
Attorney Docket No.	MSX 302RI

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 11-1540 Deposit Account Name: Kolisch Hartwell, P.C.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
- 20 or HP =	x	=				

HP = highest number of total claims paid for, if greater than 20

<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
- 3 or HP =	x	=	

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
- 100 =	/ 50 =	(round up to a whole number) x	=	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Appeal Brief

Fees Paid (\$)

250.00

SUBMITTED BY:

Signature	Registration No. 27,902	Telephone (503) 224-6655
Name (Print/Type) Peter E. Heuser	(Attorney/Agent)	Date July 22, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

JAMES PASCHAL MCCLOSKEY

Serial No. : 09/687,828

Filed : October 12, 2000

For : PORTABLE TROMMEL



Date: July 22, 2005

Our Ref.: MSX 302RI

Group Art Unit: 3653

Examiner: Joseph C. Rodriguez

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

BRIEF OF APPELLANT

This is an appeal from the Examiner's refusal to enter the amendment submitted on May 24, 2005, and therefore the rejections of claims 1, 3-22, 25, 32, 45, and 52. This appeal brief is being submitted in triplicate with the required fee.

I. REAL PARTY IN INTEREST

James Paschal McCloskey is the sole named inventor for U.S. Patent Application 09/687,828, and is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

There are no known related appeals or interferences.

III. STATUS OF CLAIMS AND GROUNDS FOR REJECTIONS

Claims 1-52 are presently pending in this application. In the final Office action dated December 1, 2004, the Examiner allowed claims 1-22, and 52, and indicated that claims 25, 32,

and 45 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 23, 24, 26-31, 33-44, and 46-51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,248,042 to Kuhmonen in view of GB Patent Application No. 2,200,613 to Jenkins et al. In addition, claims 1-52 were objected to under 37 CFR § 1.173 as being of improper form.

In a response to the final Office action dated May 24, 2005, Applicant cancelled claims 2, 23, 24, 26-31, 33-44, and 46-51 without prejudice, and made narrowing amendments to allowable claims 1, 3, 5, 7, 25, 32, 45, and 52. Applicant voluntarily made these narrowing amendments in response to two Protests filed with the USPTO under 37 CFR § 1.182. Both of these Protests were submitted subsequent to the Examiner's December 1, 2004 final Office action. The first Protest was filed on February 11, 2005 on behalf of an unnamed party, and a second Protest was filed on February 28, 2005 on behalf of Wildcat Manufacturing. While Applicant does not believe that either Protest include prior art reference that would effect the patentability of the present application, Applicant amended claims in order to further distinguish the claimed invention from such prior art.

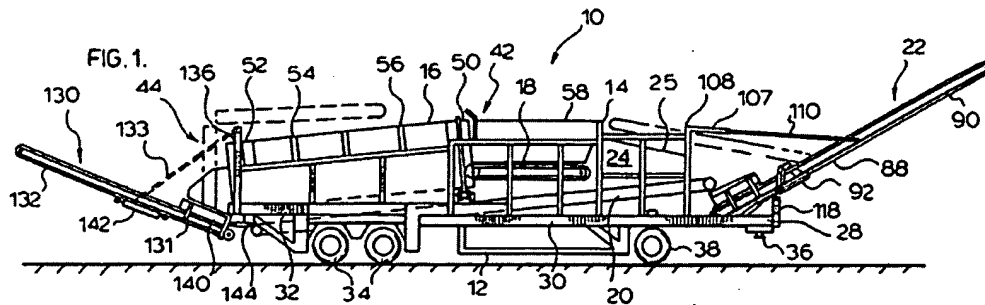
IV. STATUS OF AMENDMENTS

The present reissue application was filed on October 12, 2000 with claims 1-52. Applicant's response to the second Office action dated October 21, 2004, included amendments to claims 1 and 23 to correct typographical errors only. As discussed above, Applicant's response to the final Office action dated May 24, 2005 included an amendment to cancel claims 2, 23, 24, 26-31, 33-44, and 46-51 without prejudice, and to amend allowable claims 1, 3, 5, 7, 25, 32, 45, and 52. This after-final amendment was not entered by the Examiner.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The claims of the present reissue application, as recited in the non-entered amendment, are directed to a portable trommel which may be used to screen material. The non-entered amendment narrows the claims to recite a portable trommel including at least a chassis, or frame assembly, a trommel, an input means, an output means, and a first material distribution conveyor such as a stockpiling conveyor and/or a reject material conveyor. The stockpiling conveyor of such a recited trommel includes a lower end for receiving screened material and an upper end for stockpiling the screened material.

The limitations of the proposed amended claims may best be appreciated from Figs. 1 and 5 of the present reissue application. Figs. 1 and 5 are provided below:



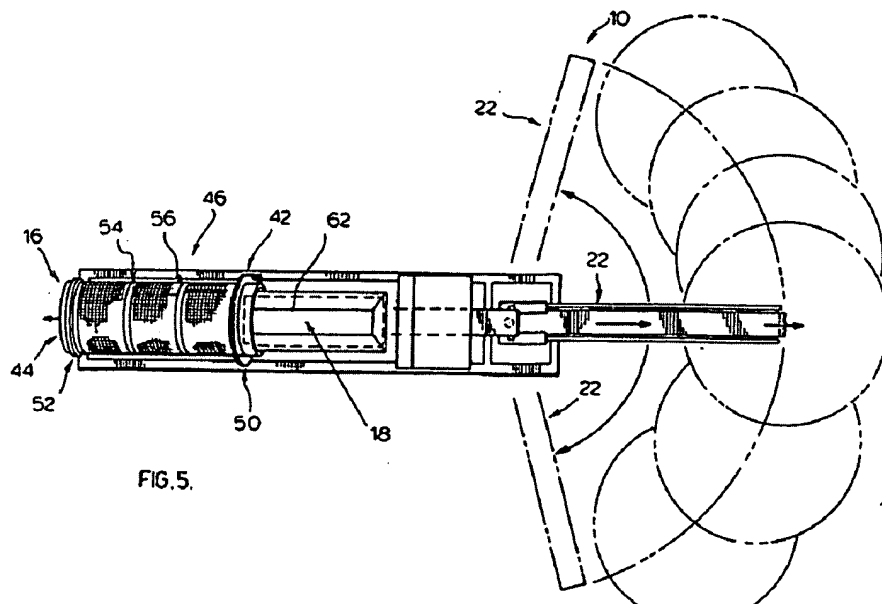


FIG. 5.

As recited in amended independent claims 1, 25, 32, 45, and 52, shown in Figs. 1 and 5, and described in the specifications at col. 7 lines 16-22, and col. 8 lines 26-31, the stockpiling conveyor and/or the reject material conveyor may be moveable between an extended operational position and a retracted position. In Fig. 1 the extended position is shown in solid lines and the retracted position is shown in dashed lines.

Claims 1, 32, and 52 recite a stockpiling conveyor mounted to the chassis for rotation about a vertical axis which is capable of forming an arc-shaped stockpile. Such a rotatably mounted stockpile conveyor is discussed at col. 11 lines 36-47 of the reissue application, and is shown in Fig. 5.

VI. ISSUE

Whether claims 1, 3-22, 25, 32, 45 and 52 are in condition for allowance as amended in the non-entered amendment included in Applicant's response dated May 24, 2005.

VII. GROUPING OF CLAIMS

Claims 1, 3-22, 25, 32, 45, and 52 do not stand or fall together, but instead are separately patentable. Claims 1, 25, 32, 45, and 52 are independent claims.

VIII. ARGUMENT

Issue: Are Claims 1, 3-22, 25, 32, 45, and 52 placed in condition for allowance by the after-final amendment?

Prior to the non-entered amendment, original claims 1-22 were allowed, added claim 52 was allowed, and added claims 25, 32, and 45 were said to be allowable when rewritten in independent form. The non-entered amendment included claims 25, 32, and 45 rewritten in independent form, and amended allowed claims 1, 3, 5, and 52 in response to two Protests filed with the USPTO under 37 CFR § 1.182.

These two third-party Protests were received by the USPTO, and the Applicant, subsequent to the Examiner's December 1, 2004 final Office action. The Protests allege that the subject matter of the present reissue application is unpatentable in light of one or more prior art references including:

Eliminator Trommel by Enviroquip Systems Inc. ("Eliminator"),
Royer 616/616MP Trommel by Royer Mfg. ("Royer"),
Landscaper Trommel by Re-Tech Industries, Inc. ("Landscaper"),
U.S. Patent No. 5,285,905 to Laprade ("Laprade"),
Cedarapids 5348-VCF-FS Impact Breaker, Cedarapids 5460 MTP Plant Parts Manual, and Cedarapids Portable & Radial Staking Conveyor by Cedarapids Mfg. (collectively referred to hereafter as "Cedarapids"),
Remu Trommel by Lepkopa Oy of Finland ("Remu"),
U.S. Patent No. 5,248,042 to Kuhmonen ("Kuhmonen"),
Diamond Z Device by Diamond Z Mfg. ("Diamond Z"),
U.S. Patent No. 4,997,135 to Zehr ("Zehr"),
U.S. Patent No. 2,609,115 to Oklejas ("Oklejas"),
U.S. Patent No. 5,577,618 to Rafferty ("Rafferty"), and
U.S. Patent No. 4,058,198 to O'Neil ("O'Neil").

While Applicant strongly disagrees with the allegations of unpatentability contained within these Protests, Applicant amended some of the allowed claims to more particularly distinguish the inventive subject matter of this reissue application over the Protests cited prior art. Due to the timing of these Protests, Applicant respectfully asserts these amendments are properly made after the final Office action under 37 C.F.R. §1.116 (b), as well as under other provisions in the Rules.

A. Amendments to Original and Allowable Patent Claims

Original claims 1, 3, 5, 7, and 25 were found to be allowable in the final Office action, and are narrowly amended in the non-entered amendment.

Claim 1 is amended to further distinguish the invention of the current application from the prior art, to correct typographical errors, and to include markings pursuant to 37 CFR § 1.173(d). Amended claim 1 incorporates the elements of original patent claim 2. Dependent original patent claim 2 was cancelled without prejudice. As both original claim 1 and claim 2 were indicated as being allowable, the inclusion of allowed claim 2 elements into original claim 1 only serves to further distinguish the portable trommel of amended claim 1, and the allowed dependent claims 3-22, from the prior art.

Amended claim 1 is reproduced below:

A portable trommel comprising:

- a chassis, including support wheels at one end thereof for movement of the portable trommel;

- a trommel rotatably mounted on the chassis and having an input end, an output end, and a trommel screen;

- input means for supplying material to be screened to the input end of the trommel, the input means being mounted on the chassis adjacent the input end of the trommel;

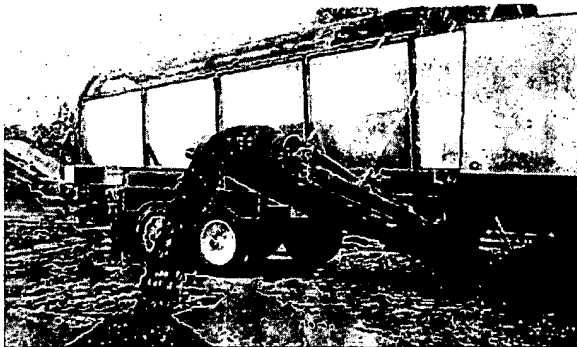
- output means for collecting material passing through the trommel screen, the output means being mounted on the chassis, below the trommel; and

- a stockpiling conveyor mounted on the chassis and having a lower end for receiving screened material from the output means and having an upper end for discharging screened material to form a stockpile, wherein the stockpiling conveyor

comprising a first lower part pivotally attached to the chassis and a first upper part, which is pivotally attached to the first lower part, the first lower and the first upper parts being movable between an extended, operational position, in which the stockpiling conveyor extends upwardly and outwardly from the chassis and a retracted position for transportation, in which the first lower part is at an angle to the first upper part and the first upper part extends over the chassis, and further wherein the first lower part of the stockpiling conveyor has a lower end mounted to the chassis for rotation about a vertical axis, to enable the stockpiling conveyor to form an arc-shaped stockpile.

As stated, claim 1 recites a portable trommel including a chassis, a trommel, a trommel output means, and a stockpiling conveyor which is mounted to the chassis, receives screened material, and is capable of rotation about a vertical axis to form an arc-shaped stockpile.

None of the prior art references cited in the Protests disclose or suggest the trommel of claim 1. While the Eliminator, Royer, Remu, and Landscaper disclose trommels mounted onto a frame suitable for transport, these references all at least lack a mounted retractable conveyor that receives screened material which is rotatable about a vertical axis and is capable of forming an arc-shaped stockpile. As shown below, the Eliminator, Royer and Remu devices each include a stockpiling conveyor located on the side of the trommel, which are incapable of the rotation about a vertical axis required to form an arc-shaped pile. Similarly, the conveyor of the Landscaper device is also incapable of forming an arc-shaped stockpile by rotation about a vertical axis. For at least these reasons, claim 1 is not anticipated by any of the Protest-cited prior art references.

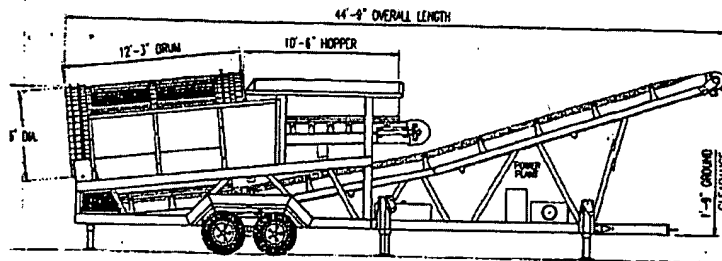


Eliminator Photo from Protests



Remu Photo from Protests

Royer Photo from Protests



Landscafer Drawing from Protests

Furthermore, none of the references cited in either of the Protests teach or suggest the trommel recited in claim 1. The Protests allege that claim 1 is rendered obvious by an array of fanciful combinations involving the above listed references, but none of these are based upon teachings then available in the prior art. While each element of claim 1 may have existed in isolation in at least one of the cited references, the assemblages argued in the Protests are based upon the teachings of the claimed inventions. As will be discussed below, this type of hindsight reconstruction is of course not permitted under proper §103 analysis.

Suggestions in the Protests include combining parts of a portable trommel reference with parts of a conveyor reference. For example, both of the Protests concluded that claim 1 would have been rendered obvious at the time the invention was made by combining a portable trommel with a side-displaced conveyor, such as the Eliminator, Royer, Remu, or Landscafer devices shown above, with one or more of the Rafferty, Zehr, Laprade, or Kuhmonen secondary references disclosing a conveyor. For convenience, the Eliminator trommel and the Rafferty conveyor are shown below.



Eliminator Photo from Protests

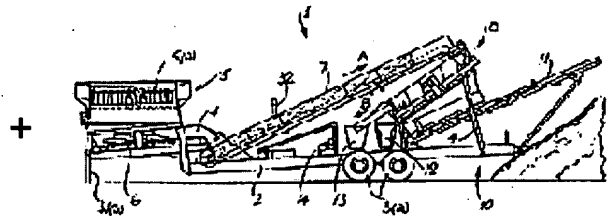


Figure from Rafferty

An attempt to combine the Eliminator screen and the Rafferty conveyor would result in an inoperable piece of equipment. This alleged combination would have resulted in a trommel with a radial stockpiling conveyor positioned on one side of the chassis. As can be appreciated by the above Eliminator Photo showing the Eliminator screen as existed at the time of the invention, there was limited space under the side of a portable trommel chassis. There was not adequate space to house the base of a radial stockpiling conveyor and the configuration of belts needed to connect with a radial stockpiling conveyor. Therefore, such a combination would have been inoperable.

In applying 35 U.S.C. § 103, the prior art references must suggest the desirability, and thus, the obviousness of making the combination. In other words, there must be some teaching or suggestion to combine the cited references. Such a requirement serves to prevent against the benefit of impermissible hindsight vision afforded by the disclosure. See In re Paulsen, 30 F.3d 1475, 1482 (Fed. Cir. 1994) and Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 (Fed. Cir. 1986). The Federal Circuit further clarified this teaching requirement of obviousness in McGinley v. Franklin Sports, Inc., 262 F.3d 1339, 60 USPQ2d 1001 (Fed. Cir. 2001) in stating that:

We have noted elsewhere, as a 'useful general rule,' that references that teach away cannot serve to create a prima facie case of obviousness. If references taken in combination would produce a 'seemingly inoperative device,' we have held

that such references teach away from the combination and thus cannot serve as predicates for a prima facie case of obviousness.

Id. at 1354 (citations omitted). Thus, it is impermissible to consider an inoperable combination of references as rendering a claim obvious under 35 U.S.C. § 103.

In applying these legal standards, Applicant respectfully disagrees with the Protests' contentions that the combination of the Protest references would have rendered claim 1 obvious. None of the references listed above, nor the collective disclosures of all of the references, provide the required teaching or motivation to produce the combination proposed in amended claim 1. Impermissible hindsight reconstruction prevents the very picking and choosing elements of various references that is suggested in the Protests. Ignoring the fact that these references do not suggest the specific portable trommel of claim 1, the references all fail to even suggest that such a combination involving a portable trommel and a rotatable, retractable, stockpiling conveyor configured to receive screened material would be desirable to achieve the device of amended claim 1.

For at least these reasons, independent claim 1 is neither anticipated nor obvious in light of any prior art references of record. Thus, claim 1 is currently in condition for allowance. As claims 3-22 are dependent on allowable claim 1, these claim are also in condition for allowance by the submitted amendment.

Claim 25 is amended to be written in independent form including all the limitations of the previously presented base and intervening claims, and to include markings pursuant to 37 CFR § 1.173(d). As indicated by the Examiner in the final Office action, this amendment places claim 25 in condition for allowance.

B. Amendments to Added Claims

As indicated in the below Claims Appendix, added claims 32, 45 and 52 are amended in the non-entered amendment.

Added claim 32 is amended to be in independent form including all the limitations of the previously presented added base and intervening claims, to further distinguish the subject of this present reissue application from the prior art, and to include markings pursuant to 37 CFR § 1.173(d). As amended, claim 32 recites the elements presented in original patent claim 2, namely that a conveyor is mounted on the frame assembly “for rotation about a vertical axis”, so as to enable the conveyor “to form an arc-shaped stockpile.” By this amendment, claim 32 is limited to more specifically distinguish the trommel of the present reissue application over the prior art references cited in the Protests. Accordingly, this amendment strengthens the patentability of added claim 32, and as indicated by the Examiner in the previous Office action, rewritten claim 32 is in condition for allowance.

Claim 45 is amended to be written in independent form, including all the limitations of the previously presented added base and intervening claims, and to include markings pursuant to 37 CFR § 1.173(d). As indicated by the Examiner in the previous Office action, amended claim 45 is in condition for allowance.

Claim 52 is amended to correct typographical errors, to further distinguish the subject of this present reissue application from the prior art, and to include markings pursuant to 37 CFR § 1.173(d). Elements of original allowed claim 2 reciting a trommel capable of rotation about a vertical axis are incorporated into amended claim 52 to more clearly distinguish the trommel recited in claim 52 from the prior art references. As discussed above in reference to amended claims 1 and 32, the amendment to claim 52 does not add any new matter and only serves to

strengthen the patentability of this allowable claim. Accordingly, amended claim 52 is in condition for allowance.

Argument Conclusion

Applicant believes that this reissue application is now in condition for allowance upon entering the amendment made in the May 24, 2005 response to the final Office action. The amendment only serves to narrow claims determined to be allowable, and does not include any new subject matter. Accordingly, Applicant submits that the amendment should be entered, and that all remaining pending reissue claims be allowed.

IX. CLAIMS APPENDIX

This listing of amended claims reflects all claim amendments (including the non-entered amendment) and replaces all prior versions, and listings, of claims in the reissue application. In compliance with MPEP § 1454, matter to be added by reissue is underlined, and matter to be omitted by reissue is enclosed in brackets.

1. (Twice Amended) A portable trommel comprising:

a chassis, including support wheels at one end thereof for movement of the portable trommel;

a trommel rotatably mounted on the chassis and having an input end, an output end, and a trommel screen;

input means for supplying material to be screened to the input end of the trommel, the input means being mounted on the chassis adjacent the input end of the trommel;

output means for collecting material passing through the trommel screen, the output means being mounted on the chassis, below the trommel; and

a stockpiling conveyor mounted on the chassis and having a lower end for receiving screened material from the output means and having an upper end for discharging screened material to form a stockpile, wherein the stockpiling conveyor comprising a first lower part pivotally attached to the chassis and a first upper part, which is pivotally attached to the first lower part, the first lower and the first upper parts being movable between an extended, operational position, in which the stockpiling conveyor extends upwardly and outwardly from the chassis and a retracted position for transportation, in which the first lower part is at an angle to the first upper part and the first upper part extends over the chassis, and further wherein the first lower part of the stockpiling conveyor has a lower end mounted to the chassis for rotation about a vertical axis, to enable the stockpiling conveyor to form an arc-shaped stockpile.

2. (Cancelled) [A portable trommel as claimed in claim 1, wherein the first lower part of the stockpiling conveyor has a lower end mounted to the chassis for rotation about a vertical axis, to enable the stockpiling conveyor to form an arc-shaped stockpile.]

3. (Amended) A portable trommel as claimed in claim [2]1, wherein the input means comprises an input hopper and an input conveyor at the bottom of the input hopper which input conveyor discharges into the input of the trommel, and wherein the output means comprises a fines conveyor extending along the portable trommel from beneath the trommel to the stockpiling conveyor.

4. (Original) A portable trommel as claimed in claim 3, wherein the stockpiling conveyor includes a collection chute at a lower end thereof for collecting and directing material onto the stockpiling conveyor thereof, and wherein the fines conveyor includes a discharge chute at the output end thereof, which directs material downwardly onto the stockpiling conveyor.

5. (Amended) A stockpiling conveyor as claimed in claim [2]1, wherein the lower end of the first lower part is pivotally mounted to the chassis for motion about a horizontal axis, and wherein the portable trommel includes a body extending upwardly from the chassis and including an upper support bracket providing a support point, with the vertical axis of rotation of the stockpiling conveyor extending through the support point, and wherein a support extends between the support point and the stockpiling conveyor for support thereof.

6. (Original) A portable trommel as claimed in claim 5, wherein the support comprises an elongate flexible element attached to the first upper part of the stockpiling conveyor.

7. (Amended) A portable trommel as claimed in claim [2]1, wherein a turntable is mounted on the chassis, for rotation about a vertical axis, and wherein the lower part of the stockpiling conveyor is mounted to the turntable.

8. (Original) A portable trommel as claimed in claim 7, which includes drive means for the turntable, for rotation of the stockpiling conveyor.

9. (Original) A portable trommel as claimed in claim 8, wherein the drive means comprises a pair of hydraulic piston and cylinder assemblies, pivotally connected between the chassis and the turntable.

10. (Original) A portable trommel as claimed in claim 8, wherein first which includes an actuation means for displacing the first lower and first upper parts between the extended and the retracted positions.

11. (Original) A portable trommel as claimed in claim 10, wherein the actuation means comprises a pair of hydraulic pistons and cylinders assemblies and a corresponding pair of mechanical linkages on either side of the stockpiling conveyor, with each hydraulic piston and cylinder assembly and one mechanical linkage providing a connection between the first lower and first upper parts of the stockpiling conveyor.

12. (Original) A portable trommel as claimed in claim 11, wherein each mechanical linkage comprises a first extension member pivotally connected to the first lower part of the stockpiling conveyor, a second extension member secured to the first upper part of the stockpiling conveyor, a connection member pivotally connected to the first and second extension members, with the respective hydraulic piston and cylinder assembly pivotally connected between the first lower extension member and the first part of the stockpiling conveyor.

13. (Original) A portable trommel as claimed in claim 12, which includes a support for the first lower part of the stockpiling conveyor, for support thereof in the retracted position.

14. (Original) A portable trommel as claimed in claim 7, wherein the input means comprises an input hopper and an input conveyor at the bottom of the input hopper which input conveyor discharges into the input end of the trommel, wherein the output means comprises a fines conveyor extending along the portable trommel from beneath the trommel to the stockpiling conveyor, and wherein the fines conveyor is inclined at an angle and has a lower end located beneath the trommel and an upper end located above the lower end of the stockpiling conveyor.

15. (Original) A portable trommel as claimed in claim 14, which includes: a power source; a hydraulic pump connected to and run by the power source; a control unit for controlling the power source and hydraulic pump; a first hydraulic motor connected to and run by the hydraulic pump and mounted for driving the trommel; a plurality of hydraulic conveyor drive motors mounted for driving the input conveyor, the fines conveyor and the stockpiling conveyor, and each being connected to the hydraulic pump, and a plurality of connections between the hydraulic pump and the hydraulic piston and cylinder assemblies of the drive means and the actuation means.

16. (Original) A portable trommel as claimed in claim 14, which includes a rejected material conveyor, attached to the chassis and extending from the output end of the trommel, for removal of coarse material that has traveled through the trommel.

17. (Original) A portable trommel as claimed in claim 16, wherein the rejected material conveyor is pivotally attached at a lower end thereof to the chassis, and wherein an hydraulic actuator is provided for displacing the rejected material conveyor between an extended, working position and a retracted position.

18. (Original) A portable trommel as claimed in claim 17, wherein the rejected material conveyor comprises a second lower part and a second upper part which are pivotally connected together, and which includes a further hydraulic actuator connected between the second lower and second upper parts for displacing the second lower and second upper parts between an extended, working position and a retracted position, the rejected material conveyor in a retracted position having the second lower part thereof extending generally upwardly against the output end of the trommel and the second upper part thereof extending generally horizontally across the top of the trommel.

19. (Original) A portable trommel as claimed in claim 7, wherein the lower part is pivotally mounted to the turntable for rotation about a horizontal axis.

20. (Original) A portable trommel as claimed in claim 16, wherein the rejected material conveyor comprises a second lower part pivotally attached to the chassis for movement about a horizontal axis and a second upper part pivotally connected to the second lower part for movement about a horizontal axis, whereby the rejected material conveyor can be moved between an extended, working position in which the rejected material conveyor extends outwardly and upwardly from the chassis and a retracted position, in which the second lower part

extends generally upwardly adjacent the output end of the trommel, and the second upper part extends over the chassis.

21. (Original) A portable trommel as claimed in claim 20, which includes a body, wherein the input hopper and input conveyor are mounted on the body, wherein the first upper part of the stockpiling conveyor in the retracted position thereof extends above and is supported by the body, and wherein the second upper part of the rejected material conveyor, in the retracted position thereof, extends above the trommel and is supported on the body.

22. (Original) A portable trommel as claimed in claim 21 wherein the input hopper and the input conveyor are provided between the trommel and the stockpiling conveyor.

23. (Cancelled) [A portable trommel comprising:

a chassis, including support wheels at one end thereof for movement of the trommel;

a trommel rotatably mounted on the chassis and having an input end and an output end and having a trommel screen;

input means for supplying material to be screened to the input end of the trommel, the input means being mounted on the chassis adjacent the input end of the trommel;

output means for collecting material passing through the trommel screen, the output means being mounted on the chassis below the trommel;

a rejected material conveyor, attached to the chassis and extending from the output end of the trommel, for removal of coarse material that has travelled through the trommel; and

a stockpiling conveyor mounted on the chassis and having a lower end for receiving screened material from the output means and having an upper end for discharging screened material to form a stockpile;

wherein each of the rejected material conveyor and the stockpiling conveyor is movable between an extended, operational position extending upwardly and outwardly from the chassis, and a retracted position for transportation, the rejected material conveyor and the stockpiling conveyor not extending substantially beyond the chassis in their retracted positions.]

24. (Cancelled) [A portable trommel as claimed in claim 23, wherein the input means comprises an input hopper and an input conveyor at the bottom of the input hopper, which input conveyor discharges into the input end of the trommel, and wherein the trommel is mounted with the output end thereof adjacent one end of the chassis, the rejected material conveyor is mounted extending from said one end of the chassis, the input means is mounted on the chassis between the trommel and the other end of the chassis and the stockpiling conveyor is mounted at the other end of the chassis.]

25. (Amended) A portable trommel [as claimed in claim 24, wherein the stockpiling conveyor comprises a first lower part pivotally attached to the other end of the chassis and a first upper part pivotally attached to the first lower part, which first lower and upper parts are moveable between the extended, operational position, and the retracted position for transportation, and

wherein the rejected material conveyor comprises a second lower part pivotally attached to the one end of the chassis and a second, upper part pivotally connected to the second lower

part, which second lower and upper parts are movable between the extended, operational position and the retracted position for transportation]comprising:

a chassis, including support wheels at one end thereof for movement of the trommel;

a trommel rotatably mounted on the chassis and having an input end and an output end and having a trommel screen, wherein the trommel is mounted with the output end thereof adjacent one end of the chassis;

input means for supplying material to be screened to the input end of the trommel mounted on the chassis adjacent the input end of the trommel, between the trommel and the other end of the chassis, the input means comprising an input hopper and an input conveyor at the bottom of the input hopper, which input conveyor discharges into the input end of the trommel,

output means for collecting material passing through the trommel screen, the output means being mounted on the chassis below the trommel;

a rejected material conveyor, mounted extending from the said one end of the chassis and extending from the output end of the trommel, for removal of coarse material that has traveled through the trommel, comprising a first lower part pivotally attached to the one end of the chassis and a first upper part pivotally connected to the first lower part, which first lower and upper parts are movable between the extended, operational position and the retracted position for transportation; and

a stockpiling conveyor mounted on the other end of the chassis and having a lower end for receiving screened material from the output means and having an upper end for discharging screened material to form a stockpile, the stockpiling conveyor comprising a second lower part pivotally attached to the other end of the chassis and a second upper part pivotally attached to the first second part, which second lower and upper parts are moveable between the extended,

operational position, and the retracted position for transportation; wherein each of the rejected material conveyor and the stockpiling conveyor is movable between an extended, operational position extending upwardly and outwardly from the chassis, and a retracted position for transportation, the rejected material conveyor and the stockpiling conveyor not extending substantially beyond the chassis in their retracted positions.

26. (Cancelled Added Claim) [A trommel vehicle comprising:

a frame assembly supported for travel over a ground surface;

a material handling elongate trommel mounted on the frame assembly having input and output ends; and

a deployable elongate material distribution conveyor mounted on the frame assembly adjacent the trommel's output end, movable relative to the frame assembly about two angularly displaced axes, and having a first and a second component, the first component operatively interposed between the second component and the frame assembly, where the first component and second component move relative to each other during adjustment of the conveyor between deployed and stowed conditions, and where adjustment of the conveyor toward its stowed condition tends to minimize its gravitational projection and adjustment toward its deployed condition tends to enlarge its gravitational projection.]

27. (Cancelled Added Claim) [The trommel vehicle of claim 26, wherein the axes are generally perpendicular.]

28. (Cancelled Added Claim) [The trommel vehicle of claim 26, wherein one axis is generally upright.]

29. (Cancelled Added Claim) [The trommel vehicle of claim 26, wherein the axes intersect.]

30. (Cancelled Added Claim) [The trommel vehicle of claim 26, wherein the conveyor's gravitational projection changes predominantly as a consequence of relative motion of the conveyor and the frame assembly with respect to at least one of said two axes.]

31. (Cancelled Added Claim) [The trommel vehicle of claim 26, wherein the conveyor's gravitational projection changes predominantly as a consequence of relative motion of the second component relative to the first component.]

32. (Amended Added Claim) [The]A trommel vehicle [of claim 26,]comprising:
a frame assembly supported for travel over a ground surface;
a material handling elongate trommel mounted on the frame assembly having input and
output ends;
a first deployable elongate material distribution conveyor mounted on the frame assembly
adjacent the trommel's output end, movable relative to the frame assembly about two angularly
displaced axes, and having a first and a second component, the first component operatively
interposed between the second component and the frame assembly, where the first component
and the second component move relative to each other during adjustment of the conveyor

between deployed and stowed conditions, and where adjustment of the conveyor toward its stowed condition tends to minimize its gravitational projection and adjustment toward its deployed condition tends to enlarge its gravitational projection, and further wherein the first and second components' relative motion includes rotation motion, such that the conveyor's gravitational projection changes predominantly by rotating the second component over the first component; and

a second deployable elongate material distribution conveyor mounted on the frame assembly for rotation about a vertical axis, to enable the second deployable elongate material distribution conveyor to form an arc-shaped stockpile.

33. (Cancelled Added Claim) [The trommel vehicle of claim 26, wherein the first and second components have long axes, such that movement between the stowed and deployed conditions is accompanied by an angular change in the long axes of the first and second component.]

34. (Cancelled Added Claim) [The trommel vehicle of claim 26, wherein the frame assembly is a chassis.]

35. (Cancelled Added Claim) [A trommel vehicle comprising:
a chassis supported for travel over a ground surface;
a material handling elongate trommel mounted on the chassis having input and output ends; and

a deployable elongate material distribution conveyor mounted on the chassis adjacent the trommel's output end, movable relative to the chassis about two angularly displaced axes, and having a first and a second component, the first component operatively interposed between the second component and the chassis, where the first component and second component move relative to each other during adjustment of the conveyor between deployed and stowed conditions, and where adjustment of the conveyor toward its stowed condition tends to minimize its linear extension and adjustment toward its deployed condition tends to enlarge its linear extension.]

36. (Cancelled Added Claim) [A trommel vehicle comprising:
- a chassis supported for travel over a ground surface;
 - an elongate trommel mounted on the chassis having input and output ends; and
 - a deployable conveyor having at least a pair of relatively moveable elongate components mounted on the chassis adjacent the output end of the trommel movable relative to the chassis about angularly displaced first and second axes, where the first and second axes intersect.]
37. (Cancelled Added Claim) [The trommel vehicle of claim 36, wherein the first axis extends generally upright through the chassis.]
38. (Cancelled Added Claim) [The trommel vehicle of claim 36, wherein the second axis extends generally perpendicular to the first axis.]

39. (Cancelled Added Claim) [The trommel vehicle of claim 36, wherein the elongate components are movable between a stowed and deployed condition.]

40. (Cancelled Added Claim) [The trommel vehicle of claim 39, wherein the elongate components have long axes, such that the movement toward the stowed or deployed condition is accompanied by an angular change in the relative position of the long axes of the elongate components.]

41. (Cancelled Added Claim) [A trommel vehicle comprising:
a chassis supported for travel over a ground surface;
an elongate trommel mounted on the chassis having input and output ends; and
a deployable elongate conveyor mounted on the chassis adjacent the trommel's output end, moveable relative to the chassis about two angularly displaced intersecting axes, and having first and second relatively moveable elongate components, the first component being operatively interposed between the second component and the chassis, the first component and second component being moveable between deployed and stowed conditions, where in the stowed condition the first component extends generally upwardly from the chassis.]

42. (Cancelled Added Claim) [A trommel vehicle comprising:
a chassis supported for travel over a ground surface;
an elongate trommel mounted on the chassis having input and output ends; and
a deployable elongate conveyor having first and second elongate components where the first component is mounted on the chassis adjacent the output end of the trommel and is movable

relative to the chassis about angularly displaced first and second axes, and where the second component articulates with the first component about a third axis as the conveyor moves between a deployed and stowed condition.]

43. (Cancelled Added Claim) [The trommel vehicle of claim 42, wherein the first axis is a generally upright axis.]

44. (Cancelled Added Claim) [The trommel vehicle of claim 42, wherein the second axis is perpendicular to the first axis.]

45. (Amended Added Claim) [The]A trommel vehicle [of claim 42, wherein the third axis] comprising:

a chassis supported for travel over a ground surface;

an elongate trommel mounted on the chassis having input and output ends; and

a deployable elongate conveyor having first and second elongate components where the first component is mounted on the chassis adjacent the output end of the trommel and is movable relative to the chassis about angularly displaced first and second axes, and where the second component articulates with the first component about a third axis, that is generally parallel to the second axis, as the conveyor moves between a deployed and stowed condition.

46. (Cancelled Added Claim) [The trommel vehicle of claim 42, wherein the first and second component have long axes such that in the stowed condition the first and second component the long axes are angularly displaced.]

47. (Cancelled Added Claim) [The trommel vehicle of claim 42, wherein movement toward the stowed condition decreases an angle formed between the first and second component.]

48. (Cancelled Added Claim) [The trommel vehicle of claim 42, wherein movement toward the stowed condition forms an acute angle between the first and second component.]

49. (Cancelled Added Claim) [The trommel vehicle of claim 42, wherein the stowed condition the second component extends above the first component.]

50. (Cancelled Added Claim) [A portable trommel comprising:

a chassis, including support wheels at one end adapted to allow movement of the portable trommel;

a trommel rotatably mounted on the chassis and having an input end, an output end, and a trommel screen;

a fines conveyor for collecting material passing through the trommel screen, the fines conveyor mounted on the chassis beneath the portable trommel; and

a stockpiling conveyor mounted on the chassis for receiving screened material from the fines conveyor, the stockpiling conveyor comprising a first lower part and a first upper part, wherein the first lower part has a lower and upper end such that the lower end is pivotally attached to the chassis and the upper end is pivotally attached to the first upper part, such that the first lower and the first upper parts of the stockpiling conveyor are movable between an extended, operational position, in which the stockpiling conveyor extends upwardly and outwardly from

the chassis and a retracted transportable position in which at least a portion of the first upper part of the stockpiling conveyor extends above the first lower part, and in which the lower end of the first lower part of the stockpiling conveyor is mounted to the chassis for rotation about a vertical axis to enable the stockpiling conveyor to form an arc shaped stockpile.]

51. (Cancelled Added Claim) [A portable trommel comprising:

a chassis, including support wheels at one end adapted to allow movement of the portable trommel;

a trommel rotatably mounted on the chassis and having an input end, an output end, and a trommel screen;

a fines conveyor for collecting material passing through the trommel screen, the fines conveyor mounted on the chassis beneath the portable trommel; and

a stockpiling conveyor mounted on the chassis for receiving screened material from the fines conveyor, the stockpiling conveyor comprising a first lower part and a first upper part, wherein the first lower part is pivotally attached to the chassis and the first upper part is pivotally attached to the first lower part, the first lower and the first upper parts being movable between an extended, operational position and a retracted position for transportation in which the first upper part does not extend remotely beyond the first lower part, and where the first lower part of the stockpiling conveyor has a lower end mounted to the chassis for rotation about a vertical axis, to enable the stockpiling conveyor to form an arc shaped stockpile.]

52. (Amended Added Claim) A trommel vehicle comprising:

a chassis supported for travel over the ground;

an elongate trommel mounted on the chassis having input and output ends; and
a first changeable configuration conveyor operatively associated with the trommel's
output end, the conveyor being adjustable between a compact stowed condition and an expanded
deployed condition relative to the chassis and including at least a pair of relatively moveable
elongate components which move relative to each other about two axes, a first component being
operatively associated more proximately than any other component with the chassis, wherein the
stowed condition the first component extends generally above the chassis and occupies a lateral
space which is less than the length of the first component; and
a second changeable configuration conveyor operatively associated with the chassis, and
mounted to the chassis, configured to rotate about a vertical axis to form an arc-shaped stockpile.

X. EVIDENCE APPENDIX

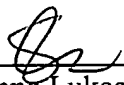
None presented.

XI. RELATED PROCEEDINGS APPENDIX

None presented.

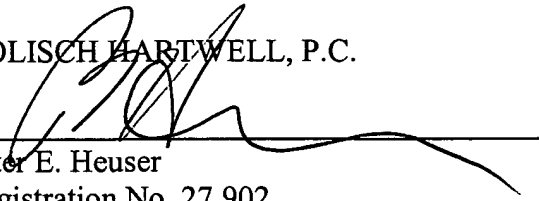
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